

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SOVANN KONG,
Petitioner,

vs.

SHARON HUDSON,
Respondent.

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CIVIL ACTION NO. H-06-3566

ORDER

Pursuant to 28 U.S.C. § 2241, et seq., it is ORDERED:

1. Preliminary examination of the Petitioner's application for a writ of habeas corpus establishes that summary dismissal is not warranted.

2. (a) **The Clerk must deliver copies of the Petition and of this order to the U.S. Marshal for service by delivery upon Donald J. DeGabrielle, Jr., the United States Attorney for the Southern District of Texas.**

(b) **The Clerk must serve copies of the Petition and of this order by certified mail upon:**

(1) **Jim Turner, Assistant U.S. Attorney, P.O. Box 61129,
Houston, Texas 77208-1129;**

(2) **Alberto Gonzales, Attorney General of the United
States;**

- (3) James L. Heathman, Supervisory Detention and Deportation Officer, Houston Processing Center, 15850 Export Plaza Drive, Houston, Texas 77032; and**
- (4) Charles Arendale, Houston Field Office Director of Department of Homeland Security, Bureau of Immigration and Customs Enforcement, Detention and Removal Operations, 126 Northpoint Drive, Houston, Texas 77060.**

3. The Respondent is required to file an answer no later than January 22, 2007, 28 U.S.C. § 2243; FED. R. CIV. P. 81(a)(2), and forward a copy of same to Petitioner. Respondent is cautioned that under Rule 12(c), FED. R. CIV. P., if matters outside the pleadings are relied upon, the Respondent's motion will be treated as a motion for summary judgment and should be titled as such.

4. The Answer of the Respondent must respond to the legal and factual contentions raised in the Petition. It must contain:

(a) Statement as to whether Petitioner has exhausted all administrative remedies, including remedies for his claim of prolonged detention; whether Petitioner

has exhausted his right to appeals or other review of the findings and decisions resulting from all proceedings involving Petitioner.

(b) Statement indicating what proceedings have been held, the dates, and what transcripts of such proceedings are available, when they can be furnished to the court, and also what proceedings have been recorded and not transcribed.

5. The Petitioner is ORDERED to file a response to any dispositive motion filed by the Respondent, within thirty (30) days. The Petitioner's failure to file a response within thirty days may result in dismissal of this action for want of prosecution under Rule 41(b), FED. R. CIV. P.

6. Each party will serve the other party, or counsel, with a copy of every pleading, letter or other document submitted for consideration by the court; service must be by mail to the other party. Every pleading or document filed with the Clerk of Court must contain a signed certificate stating the date a true and correct copy of the pleading or document was mailed and to whom mailed. Any pleading or other document received by the Clerk which fails to include the certificate of service will be returned to the submitting party. Failure to mail a copy of the pleadings as certified by the certificate will subject the Petitioner to sanctions by the court. There will be no

direct communications with the U.S. District Judge or Magistrate Judge.

Communications must be submitted to the Clerk with copies to the other party.

SIGNED on November 14, 2006, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is positioned above a horizontal line.

Lee H. Rosenthal
United States District Judge